



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-681/2019-20/1473

Karachi, dated the 09 January, 2020

To,

The Medical Superintendent/ Civil Surgeon,
Services Hospital,
Karachi.

Subject: DECISION OF REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY (APPEAL LODGED BY M/S GRIFFIN CHAMBERS VERSUS SERVICES HOSPITAL KARACHI).

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision held in its meeting on 18th December, 2019, for your information and further necessary action, please.


09/01/2020
ASSISTANT DIRECTOR (LEGAL-II)

A copy along with enclosures/ decision is forwarded for information to:

1. The Secretary to Govt. of Sindh, Health Department, Karachi.
2. The Deputy Secretary (Staff) to Chief Secretary Sindh, Karachi.
3. The Assistant Director (I.T), SPPRA [with an advice to post the Authority's Review Committee decision on website in terms of Rule-32(11) of SPP Rules, 2010].
4. The Staff Officer to the Chairman Review Committee/ Managing Director SPPRA/ Review Committee Members (all).
5. M/s Griffin Chambers, Suite No. 23, 2nd Floor, Fareed Chambers, Abdullah Haroon Road, Saddar, Karachi.
6. M/s Green Top Pharma, B-137, Block-D, Five Start Chowrangi, North Nazimabad, Karachi.



GOVERNMENT OF SINDH
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-681/2019-20

Karachi, dated the January, 2019

**BEFORE REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY
AUTHORITY UNDER RULE-32 OF SPP RULES 2010.**

(Appeal)

M/s Griffin Chambers (on behalf of M/s Green Top Pharma)

Versus

Services Hospital Karachi

(NIT ID # T00973-19-0001 dated 25.07.2019)

Facts and background

The appellant, Advocate G.A. Pathan, M/s Griffin Chambers, Karachi, lodged a complaint on behalf of his client M/s Green Top Pharma (vide letter dated 10.10.2019) addressed to the Services Hospital Karachi and copy endorsed to this Authority against the NIT # SHK/3229 dated 22.07.2019 floated by the Medical Superintendent/ Civil Surgeon, Services Hospital Karachi 'the procuring agency' for procurement of dietary items¹ whereby the appellant raised concerns over his client's disqualification under technical evaluation solely on grounds of disclosing bid security amount in the technical proposal². In turn, the Authority (vide letter dated 23.10.2019) forwarded the appellant's matter to the procuring agency with an advice to furnish the Complaints Redressal Committee (CRC) decision, if any, with regard to the appellant's matter as required under Rule-31(5) of SPP Rules, 2010 (Amended 2019)³.

2. Subsequently, the appellant (vide letter dated 21.10.2019) preferred an appeal, in the absence of review appeal fee, before this Authority stating that he had submitted a complaint to the procuring agency's CRC with request to redress his client's grievances and thereafter award contract in accordance with the rules; albeit the procuring agency has nevertheless started to receive supplies for the items from another bidder, to whom the work order is yet to be issued if found the lowest evaluated bidder, before redressing the appellant's matter. In turn, the Authority (vide letter dated 29.10.2019) forwarded the appellant's matter to the procuring agency with an advice to update/ confirm status of the appellant's bid security in terms of Rule-32(1) of SPP Rules, 2010⁴; simultaneously, the appellant was advised to submit review appeal fee⁵ which was submitted by the appellant vide his letter dated 25.11.2019. In response, the procuring agency (vide letter dated 31.10.2019) submitted a report with regard to the disqualification of the appellant's client and assured the Authority to share the CRC decision once finalized. The procuring agency's report highlighted that the appellant's client bid was rejected due to not fulfilling the bid document's eligibility criteria listed at Sr.# 2 [*photocopy of earnest money after hiding the amount should be submitted with technical bid otherwise the bid will be cancelled*]⁶.

3. Since the CRC had failed to decide matter within stipulated time period, hence, the appellant's case was taken up by the Authority's Review Committee for hearing in its meeting scheduled on 18.12.2019 at 10.00 a.m. and notices, in this regard, were issued to the parties concerned vide this Authority's letter dated 16.12.2019 to appear before the Committee on scheduled date, time, and venue. In compliance, Dr. Ajmal Mughal, Medical Superintendent, and Mr. Irfan Ali Shah, Senior Pharmacist,

¹ Detailed description/ nature of the goods can be accessed through instant procurement's NIT available on the PPMS website at ID # T00973-19-0011 [<https://ppms.pprasindh.gov.pk/PPMS/public/portal/notice-inviting-tender>]

² Single stage two envelope bidding procedure

³ Rule-31(5) provides that the complaint redressal committee shall announce its decision within seven days and intimate the same to the bidder and the Authority within three working days. If the committee fails to arrive at the decision within seven days, the complaint shall stand transferred to the Review Committee which shall dispose of the complaint in accordance with the procedure laid down in under rule 32, if the aggrieved bidder files the review appeal within ten (10) days of such transfer.

⁴ Rule-32(1) provides that a bidder not satisfied with decision of the procuring agency's complaints redressal committee may lodge an appeal to the Review Committee within ten (10) days of announcement of the decision provided that he has not withdrawn the bid security, if any, deposited by him.

⁵ SPPRA's Office Order No. Dir(A&F)/SPPRA/18-19/0325 dated 26.07.2019

⁶ *ibid.*

Services Hospital, Karachi 'representatives of the procuring agency' and Advocate Fahad Pirzada, M/s Griffin Chambers 'representative of the appellant' appeared before the Committee's meeting.

REVIEW COMMITTEE PROCEEDINGS

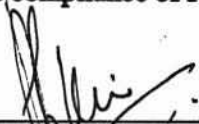
4. The Chairperson of the Review Committee commenced the meeting by welcoming all the participants of the meeting. Then, the chair asked the procuring agency's representatives to brief over the instant procurement, its current status and action taken with regard to the appellant's matter.

5. Dr. Ajmal Mughal 'representative of the procuring agency' clarified that the procuring agency solicited bids for procurement of dietary and other items through single stage two envelope bidding procedure that were received and opened by the procurement committee on 08.08.2019 whereby the appellant's client bid was rejected during technical evaluation on account of not fulfilling eligibility criteria. Subsequently, the appellant lodged a complaint to the procuring agency, which in turn referred/forwarded the matter to the CRC (Secretary Health) that could not decide the case yet. In such a way, the original bid validity period to complete instant bidding process expired on 05.11.2019, hence the procuring agency cancelled the bidding process for dietary items through circulating notice bearing No.SHK/5147 dated 17.12.2019.

- Advocate Fahad Pirzada 'representative of the appellant' expressed his satisfaction over the procuring agency's decision to cancel and re-invite the bids in accordance with SPP Rules.

Review Committee Decision

6. After hearing the parties at length, it was observed that the procuring agency had already cancelled and decided to re-invite the bids and the appellant in this context has expressed satisfaction; hence, the Review Committee unanimously decides to reject/ dismiss the appeal in light of SPP Rule-32(7)(a) of SPP Rules, 2010. However, the Committee noted that the procuring agency shall ensure redressal of complainant(s)/ bidder(s)⁷ grievances in timely manner as specified under Rule-31(5) and shall also observe compliance of Rule-47(1) of SPP Rules, 2010⁸ in upcoming tender.




(Member)
Syed Adil Gilani
Private Member SPPRA Board
Representative Transparency International



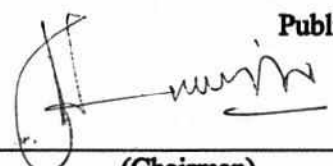
(Member)
Assadullah Soomro
Private Member
SPPRA Board

(Not attended)

(Member)
Nominee of Director General Audit Sindh



(Member/ Independent Professional)
Engr. Munir Ahmed Shaikh
Retd. Executive Engineer
Public Health Engineering Department
Government of Sindh



(Chairman)
Abdul Rahim Sheikh
Managing Director
Sindh Public Procurement Regulatory Authority

⁷ Rule-2(f) provides that the bidder means a person or entity submitting a bid or who intends to submit a bid and is able to substantially prove such intention.

⁸ Rule-47(1) provides that single stage one envelope bidding procedure shall be used as the standard bidding procedure for procurement of goods, works and services of simple and routine nature and where not technical complexity or innovation involved.